

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOMINICK AGAPOV,

Plaintiff,

-against-

UBIF FRANCHISING CO.,

Defendant.

ORDER

23-CV-02178 (PMH)

PHILIP M. HALPERN, United States District Judge:

On March 8, 2024, the Court granted Defendant’s motion to dismiss without prejudice and directed Plaintiff to, by May 6, 2024, effect proper service on Defendant in accordance with Rule 4 of the Federal Rules of Civil Procedure. (Doc. 21). On May 6, 2024, Plaintiff filed an affidavit of service indicating that he served Flynn Dowdy, counsel for Defendant, via email and certified mail. (Doc. 23). On May 8, 2024, Defendant filed a “Notice of Plaintiff’s Failure to Comply With Court Order to Effect Proper Service of Process” (Doc. 24, the “Notice”) and the Declaration of Flynn Dowdy in support of the Notice (Doc. 25), which assert that service on Flynn Dowdy was improper and asks the Court to dismiss this action for lack of personal jurisdiction. The Court directed Plaintiff to, by May 28, 2024, file a letter responding to the Notice and addressing his failure to comply with the Court’s March 8, 2024 Opinion and Order. (Doc. 26). On June 3, 2024, the Court *sua sponte* extended Plaintiff’s time to respond to the Notice to June 24, 2024. (Doc. 27).

On June 24, 2024, Plaintiff filed a letter (Doc. 29) explaining the reasons for his failure to comply with the March 8, 2024 Opinion and Order and an affidavit of service (Doc. 30) showing that the Summons and Complaint were served on Defendant via the Secretary of State on June 24,

2024. Defendant filed a letter in response arguing that Plaintiff failed to articulate good cause and asking the Court to dismiss the action. (Doc. 31).

Defendant's application to dismiss the action is denied. The Court finds that Plaintiff has shown good cause for his failure to serve Defendant by the deadline set forth in the Court's March 8, 2024 Opinion and Order. Moreover, Plaintiff properly served Defendant in accordance with Rule 4 of the Federal Rules of Civil Procedure on June 24, 2024. Accordingly, Defendant shall answer or otherwise respond to the Complaint by **July 15, 2024**.

The Clerk of Court is respectfully directed to mail a copy of this Order to Plaintiff.

SO ORDERED:

Dated: White Plains, New York
July 8, 2024



PHILIP M. HALPERN
United States District Judge